



February 4, 2003

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW, Room TW-A325
Washington, D.C. 20554

Re: CC Docket No. 01-338

Dear Ms. Dortch:

On Tuesday, February 4, 2003, Jeff Linder, of Wiley, Rein and Fielding and the undersigned held a teleconference with Lisa Zaina, Senior Legal Advisor to Commissioner Adelstein. In the conversation, Mr. Linder and myself made the following points regarding NextLevel Communications (NLC) and its broadband equipment:

NLC's EQUIPMENT PROVIDES A COMMON PLATFORM FOR VOICE, DATA AND VIDEO AND CAPTURES MARKET SHARE WHEREEVER IT HAS BEEN DEPLOYED

- NLC's innovative product, the NLevel³ Platform, delivers any combination of voice (including advanced voice services), high-speed data and multi-stream digital video to residential and business customers over a common very high-speed digital line ("vDSL").
- The NLevel³ Platform is currently the world's most widely deployed communications and entertainment solution for facilities-based telecommunications carriers seeking to use their existing copper networks to provide broadband services. Qwest's Phoenix deployment uses the NLC platform.
- Smaller independent ILECs not subject to unbundling regulations have deployed integrated service offerings and have captured significant market share using NLC's equipment. NLC's customers include Paul Bunyan Telephone Cooperative and Chibardum Telephone. In Canada, NLC's equipment is used by Canada Bell and Manitoba Telephone.

ILECS MUST BE FREED FROM UNBUNDLING REQUIREMENTS IN ORDER TO SPUR BROADBAND DEPLOYMENT

- The current regulatory framework imposes significant burdens on the major ILECs by requiring them to unbundle the network elements used to provide broadband services at cost-based rates. These unbundling requirements have made investment in new facilities unattractive.
- Requiring the ILECs to unbundle a 1.5Mbps channel on packetized fiber would inhibit broadband deployment. Such a requirement would destroy the economic basis for broadband deployment by undermining the efficiencies of statistical multiplexing. The dedicated capacity that would be required to satisfy the regulation would force ILECs to over engineer the packet network, greatly increasing the ILECs' costs. Given limited resources, the ILEC inevitably



MOTOROLA

- would be unable to deploy new packet-switched technology as widely as it could without unbundling – depriving millions of consumers of access to next-generation broadband capabilities and sharply diminishing the ILECs' ability to invest in innovative, technologically advanced equipment. An obligation to unbundle channels on packet-switched networks therefore would be antithetical to Congress's goals in Section 706 of the Act and critically needed efforts to stimulate investment and restore the health of the nation's high-tech industry. Notably, equivalent concerns do not arise with regard to the unbundling of a 1.5Mbps channel on existing TDM-based digital loop carrier arrangement.
- Proposals that would require the ILECs to unbundle broadband elements in the residential market are fundamentally misguided. The greatest opportunity for investment is in the residential market, where there is a tremendous need for new fiber and new equipment in order for ILECs to provide next-generation broadband services and compete more effectively against cable companies. "Limiting" unbundling obligations to the residential market consequently would undermine efforts to reinvigorate the manufacturing sector by squelching incentives to invest where the opportunity and need is greatest. In addition, making a distinction between the residential and business market would make overall deployment more administratively burdensome and undoubtedly would generate ongoing disagreements that the FCC and state regulators will be called upon to resolve.-

**DECISIVE ACTION BY THE FCC WILL INVIGORATE THE MANUFACTURING SECTOR,
SPUR R&D INVESTMENT AND ENCOURAGE RIGOROUS BROADBAND COMPETITION**

- ILEC investment will provide much-needed jumpstart for the technology equipment manufacturing industry and prevent further job and operational cutbacks in this beleaguered sector.
- Equipment suppliers will reinvest their resources in R&D and improve their products.
- With the ILECs free from unbundling obligations, they will offer a full package of services, competing with other broadband service providers. Other broadband service providers will respond with more aggressive deployment, lower prices and innovative service packages. All of these developments will help consumers.

Please contact me at (202) 371-6896 should you have any questions regarding this matter.

Respectfully submitted,

/s/ Jeanine Poltronieri

Jeanine Poltronieri
Director
Telecommunications Regulation and Strategy
Motorola

C: Lisa Zaina